

REMARKS/ARGUMENTS:

Reconsideration of the above identified application is respectfully requested.

In the office action dated June 30, 2004, the Examiner alleges that although claims 10-16 and 33-47 are currently pending, claims 10-16 and claims 33-42 ought to be considered to be withdrawn due to previous election under a restriction order. Thus, only claims 43-47 are currently under consideration.

In light of the allegations made by the Examination, and in order to expedite the prosecution of the present case, Applicants decide to withdraw claims 10-16 and 33-42, but reserve their rights to file a Divisional Application to continue to prosecute the withdrawn claims.

Claims 44-45 are objected to as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Claims 43-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Eini et al. (U.S. 5,227, 163) (hereinafter “Eini et al.”).

In response to the objections and rejections, Applicants have amended claims 43-44, and 46, cancelled claim 45, and added claim 48-51. Support for the amendments and addition of claims can be found throughout the specification as originally filed, particularly Example 5 (pages 30-32) and Figure 1. No new matter has been introduced.

Applicants acknowledge safe receipt of the Notice of References Cited (PTO-892).

Applicants respectfully submit the amendments of the claims have overcome the objections and rejections for the reasons set forth below:

Claim Objections

Claims 44-45 are objected to under 37 CFR 1.75(c), as being of improper dependent form.

In response to the objections, Applicants have cancelled claim 45 and converted claim 44 into an independent claim. Thus, the issues pertaining to the objections are moot.

Claim Rejections under 35 U.S.C. §102(b)

Claims 43-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Eini et al. Eini et al. teach the use of terpeneols as lice-repellant.

In response to the rejections, Applicants have amended claims 43 and 44. The amended claim 43 removes “terpeneol” as one of the CYP 1A inhibitors in the Markush Group. Thus, the issue of Eini et al. being a 102(b) prior art is now moot. Claims 46-47 are dependent claims of claim 43, and thus, are also not anticipated by Eini et al.

The amended claim 44 becomes an independent claim and contains a limitation which recites that “wherein said pharmaceutical composition is applied to skin of a mammal together with a dermatological drug,” which is fully supported by the specification, especially in Example 5 and Figure 1, where terpineol is co-administered to the skin with retinoic acid. The application of terpineol improves the bioavailability of the retinoic acid, as demonstrated by the retinoic acid amount found in the plasma.

To anticipate a claim, each and every element of the claim must be taught, either expressly or inherently, in a single prior art reference. See e.g., Verdegaal Bros. v. union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987) (“a claim is anticipated only if each and every

element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference”).

Since nowhere in Eini et al. that the co-administered with a dermatological drug to the skin of a mammal, Eini et al. do not anticipate the claimed invention.

New claims 49-51 claim a topical pharmaceutical composition which contains (1) a CYP 1A inhibitor, (2) a dermatological drug, and (3) a carrier. Since Eini et al. never teach a composition containing a dermatological drug, it does not anticipated claims 49-51.

In view of the foregoing, the objections and rejections have been overcome and the claims are in condition for allowance, early notice of which is requested. Should the application not be passed for issuance, the examiner is requested to contact the applicant's attorney to resolve the problem.

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Respectfully submitted,


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